§ 81.30 Limited exclusive licenses.

(a) An NRC invention may be made available for the grant of a limited exclusive license provided that:

(1) The invention has been published as available for licensing pursuant to §81.13 for a period of at least six (6) months.

(2) The Commission has determined that (i) the invention may be brought to the point of practical application in certain fields of use or in certain geographical locations by exclusive licensing, (ii) the desired practical application has not been achieved under any nonexclusive license granted on the invention, and (iii) the desired practical application is not likely to be achieved expeditiously in the public interest under a nonexclusive license or as a result of further Government-funded research or development.

(3) Notice of the selection of a prospective licensee to be granted a limited exclusive license of a specified duration and scope shall have been transmitted to the Attorney General of the United States and shall have been published for at least sixty (60) days in the FEDERAL REGISTER with a statement advising of the rights of license applicants or third parties to apply for nonexclusive licenses or bring information to the attention of the Commission under the next paragraph.

(4) After expiration of the period in paragraph (a)(3) of this section, the Commission has determined (i) that no applicant for a nonexclusive license has brought or will bring the invention to the point of practical application as specified in the prospective exclusive license within a reasonable period under a nonexclusive license, and (ii) that the granting of the license would be in the public interest and not be inconsistent with the Act after consideration of all the facts and any written evidence and argument which third parties may present to the Commission within sixty (60) days of the publication of the notices of the selection of the licensee under paragraph (a)(3) of this section.

(5) The Commission shall record and make available for public inspection, upon request, all decisions and the basis thereof under this section.

§ 81.31 Selection of an exclusive licensee.

An exclusive licensee will be selected by the Commission on bases consistent with the policy set forth in §81.11 of this subpart in accordance with the procedures herein, based upon the information supplied to the Commission in a license application under §81.40. Consideration will be given to: (a) The capabilities of the applicant to further the technical and market development of the invention to bring the same to the point of practical application, (b) the applicant's plan to undertake development of the invention, (c) the projected impact on competition, (d) the benefit to the Government and the public, as well as (e) assistance to small business and minority business enterprises and economically depressed, low income and labor surplus areas, and (f) whether the applicant is a U.S. citizen or corporation.

§ 81.32 Terms of exclusive license grant.

(a) NRC inventions may be made available for the grant of limited exclusive licenses to responsible applicants who will bring the invention to the point of practical application and make its benefits reasonably accessible to the public.

(1) The license may be granted for all or less than all fields of use of the invention, and throughout the United States of America, its territories and possessions, Puerto Rico, and the District of Columbia, or any lesser geographical portion thereof.

(2) The duration of the license will be negotiated and shall include (i) a period of exclusivity specified in the license, which shall be related to the period necessary to provide a reasonable incentive for the licensee to invest the necessary risk capital to bring the invention to the point of practical application and which shall not exceed 5 years or be extended unless the Commission determines on the basis of a written submission supported by a factual showing that a longer period is reasonably necessary to permit the licensee to enter the market and recoup